

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Larry James Tyler,)	Civil Action No.: 9:12-2828-MGL
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Ronald Brooks,)	
)	
Defendant.)	
)	

Plaintiff Larry James Tyler (“Plaintiff”), proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 on October 1, 2012, against Defendant alleging violations of his constitutional rights. (ECF No. 1.) At the time of the underlying events, Plaintiff was incarcerated at the Darlington County Detention Center in Darlington, South Carolina.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On March 25, 2013, Magistrate Judge Marchant entered a Report and Recommendation (“Report”) recommending that this action be dismissed with prejudice for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Report of Magistrate Judge Marchant was mailed to Plaintiff advising him of his right to file objections to the Report and the time frame in which he must do so. (ECF No. 27.) More specifically, Plaintiff has failed to comply with this Court’s Orders of January 18, 2013 (ECF No. 19), February 26, 2013 (ECF No. 21) and March 8, 2013 (ECF No. 25) directing Plaintiff to respond to Defendants’ Motion for Summary Judgment filed on January 17, 2013. (ECF No. 18.)

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter

to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made. Plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 27 at 3.) However, he has not done so and objections were due on April 11, 2013. In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
April 29, 2013